

REMARKS

Claims 31-45 and 68 are pending.

The rejection under 35 U.S.C. §102(e)

Claims 31-45 and 68 were rejected as being anticipated by U.S. Patent Application Publication 2004/0081683 (Schacht).

The Applicants respectfully traverse this rejection. The Applicants note that the earliest possible effective date under 35 U.S.C. §102(e) for Schacht is March 5, 2003, the filing date of U.S. Provisional Patent Application Serial No. 60/451,715. The Applicants traverse this rejection because the Applicants reduced to practice the presently claimed invention before March 5, 2003. Thus, Schacht is not available as a reference under 35 U.S.C. §102(e) against the present claims.

Enclosed herewith is a Declaration under 37 C.F.R. §1.131 by the present inventors: Armin Breitenbach, Claus Meese, Hans-Michael Wolff, and Roland Drews. The Declaration under 37 C.F.R. §1.131 shows that the inventors had reduced the claimed invention to practice before March 5, 2003.

Before March 5, 2003, the inventors had tested devices for transdermal delivery comprising the free base of Fesoterodine contained in a variety of polymer matrices (paragraphs 10-15 of the Declaration under 37 C.F.R. §1.131). These devices were able to release the base of Fesoterodine through human skin at a rate sufficient to conclude

that 0.5-20 mg/day could be released (paragraphs 16-20 of the Declaration under 37 C.F.R. §1.131).

In view of the above, it is respectfully requested that this rejection be withdrawn.

The Applicants hereby make a Conditional Petition for any relief available to correct any defect seen in connection with the filing of this paper, or any defect seen to be remaining in this application after the filing of this paper. The Commissioner is authorized to charge Kenyon & Kenyon LLP's Deposit Account No. 11-0600 for the Petition fee and any other fees required to effect this Conditional Petition.

Dated: January 28, 2009

BY: /Joseph A. Coppola/
Joseph A. Coppola
Reg. No. 38,413

Respectfully submitted,

KENYON & KENYON LLP
One Broadway
New York, NY 10004
(212) 425-7200 (telephone)
(212) 425-5288 (facsimile)
Customer No. 26646